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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

Case No. 2:13-CR-18 JCM (GWF)

8 Plaintiff(s),

ORDER

9 v.

10 LEON BENZER, et al.,

11 Defendant(s).
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13 Presently before the court is defendant Keith Gregory's motion to strike and seal (ECF No.
14 909) exhibits F-1, F-2, and F-3 (ECF Nos. 891, 892, 893) to his motion to vacate, set aside, or
15 correct sentence under 28 U.S.C. § 2255 (ECF No. 883). Gregory requests that those exhibits be
16 stricken from the record and sealed, as they "contain privileged attorney-client and attorney work
17 product information that was never intended to be filed with the Court but were nevertheless
18 inadvertently filed." *Id.* The court will first address whether to strike, and will then turn to whether
19 to seal, the exhibits.

20 With regard to Gregory's motion to strike, the court finds that these exhibits contain
21 attorney-client privileged information and attorney work product. The exhibits are replete with
22 references to counsel's mental impressions and conversations he had with Gregory. The court
23 therefore accepts Gregory's admission that the release of this information was inadvertent and will
24 accordingly strike exhibits F-1, F-2, and F-3 (ECF Nos. 891, 892, 893) from the record. The court
25 thus turns to whether to seal the exhibits.

26 "[T]he courts of this country recognize a general right to inspect and copy public records
27 and documents, including judicial records and documents." *Nixon v. Warner Commc'ns, Inc.*, 435
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1 U.S. 589, 597 (1978). A party seeking to seal a judicial record must comply with the Ninth
2 Circuit's directives set forth in *Kamakana v. City and County of Honolulu*:

3 Unless a particular court record is one “traditionally kept secret,” a “strong
4 presumption in favor of access” is the starting point. ... A party seeking to seal a
5 judicial record then bears the burden of overcoming this strong presumption by
6 meeting the “compelling reasons” standard. ... that is, the party must “articulate[]
7 compelling reasons supported by specific factual findings,” that outweigh the
8 general history of access and the public policies favoring disclosure

9 In general, “compelling reasons” sufficient to outweigh the public’s interest in
10 disclosure and justify sealing court records exist when such “court files might have
11 become a vehicle for improper purposes,” such as the use of records to gratify
12 private spite, promote public scandal, circulate libelous statements, or release trade
13 secrets. ... The mere fact that the production of records may lead to a litigant’s
14 embarrassment, incrimination, or exposure to further litigation will not, without
15 more, compel the court to seal its records.

16 447 F.3d 1172, 1178–79 (9th Cir. 2006) (citations omitted). If the court decides to seal judicial
17 records, it must “base its decision on a compelling reason and articulate the factual basis for its
18 ruling, without relying on hypothesis or conjecture.” *Id.* at 1179.

19 After reviewing the exhibits in question, the court finds that there exist compelling reasons
20 to seal exhibits F-1, F-2, and F-3 (ECF Nos. 891, 892, 893). Those exhibits include the type-
21 written notes of Gregory’s counsel, which reflect his mental impressions of the case and privileged
22 conversations that he had with Gregory. Given the public’s interest in protecting against the
23 inadvertent disclosure of privileged and work product material and the court’s determination that
24 these exhibits should be stricken from the record, the court finds sufficiently compelling reasons
25 to seal these exhibits.

26 Accordingly,

27 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Gregory’s motion to
28 strike and seal (ECF No. 909) exhibits F-1, F-2, and F-3 (ECF Nos. 891, 892, 893) be, and the
same hereby is, GRANTED. Exhibits F-1, F-2, and F-3 (ECF Nos. 891, 892, 893) are hereby
STRICKEN.

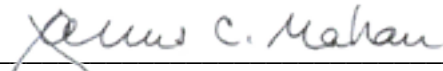
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1 IT IS FURTHER ORDERED that the clerk shall seal Exhibits F-1, F-2, and F-3 (ECF Nos.
2 891, 892, 893).

3 DATED January 16, 2020.

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7 UNITED STATES DISTRICT JUDGE
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